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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/016,727      | 12/10/2001  | Kirsten Smith        | 0275Y-000418        | 4703             |

7590 12/03/2003

MARK A FRENUP  
HARNESS DICKEY & PIERCE PLC  
P O BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

KRAMER, JAMES A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3627

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                               |                              |  |
|------------------------------|-------------------------------|------------------------------|--|
| <b>Office Action Summary</b> | Application N .<br>10/016,727 | Applicant(s)<br>SMITH ET AL. |  |
|                              | Examiner<br>James A. Kramer   | Art Unit<br>3627             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 7-9, 12-14 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sammon, Jr. et al. (hereinafter Sammon).

Sammon teaches a consumer profiling system with analytic decision processor. In particular, the system includes a decision engine server which includes data structures which define a domain product set, which consists of a list of items in a product domain (a database of products) (e.g. column 5, lines 15-20). The decision engine server also includes a display on which a graphic user interface is displayed for the purpose of gathering user profile data (user interface) (column 4; lines 65-67).

Sammon further teaches that a user is presented with a sequence of prompts and provides preference and requirement data in response to the prompts. As each prompt is completed, the product set of remaining items is computed based on any requirements specified (column 3; lines 43-47). In other words, the system poses questions over the user interface and queries the product set in response to the user's responses/answers.

Sammon teaches that the decision engine server can be local to the user (column 5; lines 1-2) or connected over a wide area network (i.e. the Internet) (column 5; lines 3-4) (the database is directly connected to the server, the database is connected to the server over a network).

***Claim Rejections - 35 USC § 103***

Claims 5-6, 10-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr. et al. (hereinafter Sammon).

Sammon as described above does not teach the product set (database) being periodically pumped, nor it being a dynamically updated central database. Examiner takes Official Notice that it is old and well known in the art that product database are routinely updated in order to provide customers with the most current product information. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sammon by updateing the product set information when new information became available, by either pumping the local database from a central database or using a dynamic central database in order to provide users of the system with the most current product information.

Sammon does not specifically teach using the system for tools. Sammon does teach the present invention helps average people make complicated consumer product decisions.

Examiner takes Official Notice that it is old and well known in the art that purchasing power

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tools and the like is a complicated product decisions. As such It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Sammon to include tool information in the product set and provide user prompts about consumer tool preferences in order to help the consumers with the difficult decisions of which tool to purchase.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

James A. Kramer  
Examiner  
Art Unit 3627

JAK

  
Richard Chilcot  
Supervisory Patent Examiner  
Technology Center 2050  
